Supreme Court, U.S.
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No: **06A1196**

IN THE **SUPREME COURT OF THE UNITED STATES**

Prasad Bikkani ---Petitioner

v.

Rotan E Lee
North East Ohio Neighborhood Health Services (NEON)
Total Health care Plan, Inc (THCP)
Scheur Management Group (SMG), Barry Scheur, Robert McMillan, Robert Eichler, Jimmy Dee
Ruth Aaron
Brenda Stevens Marshall, Frank Kimber
Moreno Miller
Paula Phelps
Arnold Pinkney/Beptin & Associates Inc
Joseph Davis

Respondents

For Writ Of Certiorari
To The Court of Ohio Supreme Court
Case No. **2006-2302**

Prasad Bikkani, **Pro Se (Still trying to hire an attorney who can represent in the case)**
3043 Forestlake Dr
Westlake, OH 44145 (440) 808-1259
Prasadbabu@aol.com

QUESTIONS PRESENTED:

1) Whether a Bankrupt/liquidated Ohio corporation can supersede uniform Federal Supremacy Bankrupt laws due to Ohio RC 5311.18, and an appellant can be qualified as vexatious litigant in a different case because in good faith tried to protect selfrights and constitution through appeals and too granting in favor of IRC 4941(d) forbidden selfdealings trustee cum attorney of a nonprofit corporation

2) Whether Ohio RC 5311.18 is constitutional to supersede Federal Bankrupt uniform supermacy laws and whether Ohio vexatious statute is constitutional to declare victim as vexatious on appeal while help was sought on Due process, to avoid severe conflicts of interests of IRC 4941(d) forbidden selfdealings attorney who caused the underlying case

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Note: For referencing convenience the following notation was used:
JU1107: Exhibit X refers to corresponding Exhibit of June 11, 2007 filing in Ohio Supreme Court OH2006-2073
D1806: Exhibit X refers to pertinent Exhibit of December 18, 2006 filing on OH2006-2073 Ohio, Supreme Court
D0506: Exhibit X refers to corresponding Exhibit of on or around December 5, 2006 filing
AU1307: Exhibit X or P# refers to corresponding Exhibit or Page# of August 13, 2007 filing in OH2006-2302

I. Jurisdiction of the case:

The instant case involved with Constitution Due process and Federal Supremacy laws involving Bankrupt 7 liquidation of a corporation, **AU1307: Exhibit C9-C43**. With Miles Landing Home Owners Association, MLHOA, where petitioner is a defendant in *Miles Landing Homeowners Association v. Bikkani* et al (8th Dist cv04-519870, CA86356 & 86942, OH 2006-1694), *Miles Landing Homeowners Association v. Bikkani*, 2006 -Ohio-3328 (Ohio App. Dist.8 06/29/2006) the 8th District Appeal court ruled in 2006 stating Ohio RC 5311.18 has authority against Defendants' property to appoint a Receiver in favor of a 1977 cancelled, 1978 bankrupt/liquidated/ defunct corporation. In that respective case Ohio Supreme Court didn't take-up the case stating not involved any substantial constitutional question, for them. Using the above similar judgments, MLHOA is converting properties/money **AU1307: Exhibit B19-22** to Holders and even appeal courts declined to stay the sale of properties pending appeals such as *Miles Landing Homeowners Association v. Harris* (8th Dist cv03-501112, CA06-88471) and affirmed judgment to foreclose using a bankrupt/defunct/liquidated corporation under Ohio RC 5311.18, and for MLHOA's summary judgment motion, MLHOA used the bankrupt/liquidated BVCUOA as Exhibit C, a corporation that was converted by Ohio Secretary of state as "DEAD" status, **AU1307: Page 47, 53, AU1307: Exhibit C14-C43** yet OH RC 5311.18 prevailed.

For the pecuniary benefit of MLHOA-Holders, using bankrupt/liquidated MLHOA corporation without serving justice in *Miles Landing Home Owners Association v. Bikkani* (8th Dist

cv04-519870, CA86356 & 86942, OH 2006-1694) and the same pattern continued in hundred plus other cases and these legal extortions should not give additional right in the instant case for trustee cum Fitzsimmons to get declared petitioner's claim/appeal as if frivolous, and or as if vexatious litigant and such judgments further victimized the victim/petitioner and violated many constitutional amendments and this court has jurisdiction to review, reverse, to protect constitution, to protect Federal Supremacy Bankruptcy laws to have uniformity throughout the nation and to save future generations of victims.

Moreover, while protecting the rights of victims should not be utilized by wrongdoers to cover their self dealings by making higher courts to declare as if the petitioner as vexatious, granting sanctions and it is further questionable to see whether Ohio vexatious statute was meant for that purpose and if so whether it is constitutional. Moreover, besides trustee cum attorney Fitzsimmons using MLHOA case for his purpose to declare petitioner as if vexatious in Ohio Supreme Court, he caused MLHOA to file a duplicate claim in his wife's Rocky River court in early 2007, and he himself filed a separate case in Cuyahoga County Common Pleas Court using NEON/THCP as his clients with his IRC 4941(d) self-dealing purpose to declare Petitioner and his wife to be declared as vexatious litigants, **AU1307: page 1(b), 5(b);** AU1307: **Exhibit S1-S2**, especially by citing the MLHOA cases in a way of harassing and intimidation. It is the consequence the victims face when self-dealing fiduciaries to protect their dealings can file anything they want by controlling a non-profit corporation/client and Disciplinary Rules and ethics were supposed to be implemented for the integrity of judiciary system. Besides, the victims honestly tried to defend the MLHOA case through appeals as they faced material falsification of self dealing MLHOA attorneys, upon producing 450 pages of evidence through 8/7/2007 filing by petitioner in *MLHOA v. Bikkani* (8th Dist cv04-519870), **AU1307: Exhibit A0**, the trial court vacated all the judgments, which caused appeals, in a way of withdrawing/striking all pleadings except 1-16-2004 filed Complaint and by giving time until 9-17-2007 for Answer/pleadings and by placing the pre-trial for 5/6/2008, **AU1307: Exhibit A0 P 14**.

Besides the tremendous harm caused to petitioner through MLHOA who acted with pecuniary benefit and submitted even on 4/21/2005 at 3:48 pm an ex-parte fax **AU1307: Exhibit G3-G4**, with materially false information, upon coming from appeals, the trial court's decision of vacating all the judgments by way of re-granting Answer/pleadings time to 9/17/2007 did not minimize the harm in the instant case by declaring as if petitioner as vexatious and Ohio Supreme court declined to reconsider the decision in the instant case, OH2005-2302, by denying the August 13, 2007 filed motion even to satisfy the judgment as the sanctions were paid with bank certified check. **AU1307: Exhibit R1**. Moreover, regarding the rights granted by Ohio courts for a bankrupt/ liquidated corporation under Ohio RC 5311.18 over Federal Supremacy laws were intact and does not affect such rights through the above reversal of trial court as Appeal courts affirmed such judgments and Ohio Supreme court declined jurisdiction and one of such recent appeal court affirmation of the trial court foreclosure judgment through RC 5311.18 is in *MLHOA v. Harris* (8th Dist cv03-501112, CA 06-088471), 7/24/2007 decision affirmed). Thus Ohio RC 5311.18 supremacy over Federal Supremacy Bankruptcy laws and such contest through appeals branding the victim as vexatious are still issues that are still in front of this honorable court.

II. Statement of the case

A) Brief Introductory Statement about MLHOA that was used by Matthew Fitzsimmons to discredit Petitioner to cover-up his constitutional violations along with forbidden IRC4941 (d) self dealings:

MLHOA-Holders, **JU1107: Exhibit D**, control MLHOA without ever showing books/records and or the legal existence and converted funds in millions of dollars from hundreds of unit/homeowners in the MLHOA area including from Petitioner, **AU1307: Exhibit A0 P14-30**. Often a single attorney who represents the MLHOA by bringing lawsuits also represents any parties brought into the lawsuit as the millions of dollars of collections were controlled by them without ever showing the accounting, legality and converted into their names by claiming as Fiduciaries/Trustees. For example, in *Miles Landing Homeowners*

Association v. Harris (8th Dist cv03-507970, CA06-88728, OH 2006- 2054), attorney Keith Barton represented **Plaintiff/MLHOA and 8** other defendants (D5, D6, D7, D8, D, D10, D11, and D13) on both diversified sides of the case, **AU1307: Exhibit A0 P42-43, p53-56**. At the will of MLHOA Holders they bring foreclosure lawsuits randomly against others using MLHOA and use Ohio RC 5311.18 as an immunity **AU1307: Exhibit A0 P43-52**, the petitioner is one of such victims in *Miles Landing Homeowners Association v. Bikkani* (8th Dist cv04-519870, CA86356 & 86942, OH 2006-1694). The petitioner contested against MLHOA and its Attorney partners on the issues:

Upon Ohio Supreme Court's declination to the *Miles Landing Homeowners Association v. Bikkani* (8th Dist cv04-519870, CA06-086356, CA06-086942, OH2006-1694) on 12/27/2006, petitioner hoped that the case continues in trial court upon return from Ohio Supreme Court. However, upon Mr. Fitzsimmons effectively utilizing MLHOA's illegal activities and petitioner' s opposition to MLHOA into his favor, MLHOA filed a new case during 2007 in Rocky River Municipal court where Mr. Fitzsimmons's wife is a judge. Trustee cum attorney Fitzsimmons submitted materially false affidavit in September 2005 to the trial court and continue to represent with his self dealings, with protective order in violation of attorney-fraud exception, getting stricken the summons tendered by Sheriff to him, **D1806: Exhibit C**, obstructing depositions by other board members, acting with IRC441(d) forbidden self-dealings, acting on behalf of all Board members/trustees, avoiding disclosures, representing against the clients, avoiding deposition of a person through whom produced knowingly the materially false affidavit, D1806: **Exhibit D, Exhibit E**, and blocking the deposition, violating 35 Disciplinary Rules, over two dozen parties of conflicts of interest, constitutional violations; the petitioner approached Appeal court with pertinent trial court judgment entries, with a hope that law can be modified to protect community and constitution in the event appeal is not appropriate, etc.

Ohio RC 5311.18 is not only superseded Federal supremacy laws, **AU1307: Exhibit A0 p41-53,** but violated many constitutional rights including the **Sixth Amendment**, with unusual punishment to victims who stand against unlawful acts by sacrificing many things as some attorneys intentionally involved

for their purpose: For example, trustee cum attorney Fitzsimmons was specifically recruited by SMG/Barry Scheur who is an Harvard educated lawyer and Mr. Fitzsimmons successfully converted THCP into NEON fold, even by misrepresenting to Ohio Attorney General's office, Ohio Department of Insurance etc by claiming as if NEON is a parent of THCP, when in fact rivalries per their own communications, D1806: **Exhibit H-Exhibit O,** and too conversion without the knowledge of THCP Board of Trustees and with materially false information's. Mr. Fitzsimmons by representing in the instant case as if by representing NEON/THCP when infact actually recruited by Barry Scheur with THCP funds with an intent to defend him and other Holders from many improprieties such as **D1806: Exhibit P-Exhibi W**, and through Mr. Fitzsimmons's representation in the trial court even helped Barry Scheur etc who are facing criminal charges on 14 counts with new indictment in Louisiana, *United States v. Scheur et al* (Louisiana, CR07-169), which includes wire fraud, mail fraud, conspiracy, etc.

The courts have evidence through filings that some attorneys with their business partners used defunct/liquidated MLHOA Corporation under the benefit of Ohio RC 5311.18 against Federal bankrupt/liquidated supremacy laws and benefiting even against banks and one of such case is *Miles Landing Homeowners Association v. First Fed Savings* (8th Dist cv03-501113). To conceal any facts, in the anticipation that a judge may go beyond RC 5311.18, often the same attorney represents multiple parties and in CV03-507970 both the sides of the case was represented by Attorney Keith Barton and the courts refused to disqualify him just like courts refused to disqualify trustee cum attorney Matthew Fitzsimmons and granted judgment in his/Petitioner favor by stating RC 5311.18 and by not using federal Supremacy laws about bankrupt/ liquidated status of a corporation.

B) Brief Introductory Statement about NEON/THCP those were used by Matthew Fitzsimmons to discredit Petitioner while violating constitution along with forbidden IRC4941 (d) self dealings:

Besides the hundreds of conflicts listed in JU1107 and D1806 filings and similarly in the past in lower courts, Petitioner believed

that law supports the appeal at least under the contest to modify the law, and with the experience of MLHOA case and as difficult to safeguard the integrity of process as many key facts are being altered by involved attorneys and in good faith petitioner believed that Disciplinary Rules and pertinent laws supports the appeal. Attorney Fitzsimmons involved with many violations in the instant case and his self interests ahead at the expense of constitution, clients, Petitioner and others. Some of the Matthew Fitzsimmons involvement issues namely are with the supporting hundreds of paragraphs, JU1107 and D1806 filings, including:

As the evidence is in front of court, Matthew Fitzsimmons in collaboration with other Holders **personally selected** and ousted Petitioner unlawfully, as he stated please see, D1806: **Exhibit A1, A2**, D0506: **Exhibit Q2, "...[he] identified personnel for the reduction-in-force...."** Thus he acted in operational duties and not as an attorney for a company as many of the hundreds of paragraphs highlighted to it, D0506: **Exhibit R.** Matthew Fitzsimmons is a trustee of a corporation, NEON, D0506: **Exhibit A Para I (3)** of John Campbell's July 21, 1999 letter is further evidence which states in part "that an "alliance document" was to result from discussions between Mr. Lee **and our Trustee, Mr. Fitzsimmons"** [emphasis added] and the NEON board/officers expected him to be interacted with THCP as a trustee of NEON and without self-dealings and there are no disclosures from him to NEON's board as if he had a self business with THCP to oust Petitioner from THCP payroll and or from NEON payroll, but he did without corporate formalities either. Mr. Fitzsimmons engineered a materially false affidavit in September 2005, **D1806: Exhibit D** in contrary to **D1806: Exhibit E**, and submitted to court and caused perjury, in an effort to dismiss the case then stating Petitioner was never an employee of NEON/formerly known as CNHSI, because he had pecuniary benefit in ousting Petitioner, D1806: **Exhibit A, Exhibit E9, Exhibit E10**, and decided to discredit to cause perjury in the court; when in fact hired by NEON, formerly known as CNHSI, **D1806: Exhibit E1-E6**. While ousting Petitioner improperly, Matthew Fitzsimmons withheld over $20,000 unused vacation pay for over a year with a black mail, to sign a separation agreement to cover his illegal activities, and too by claiming as if the waiver requirement is

mandatory even to pay unused vacation for a 40+ age category. Mr. Fitzsimmons engineered to change name of the department from MIS to BIS, D1806: **Exhibit E6,** and caused to tell inquiring agencies as if the department was eliminated. Ultimately, NEON trustee, attorney Fitzsimmons converted THCP Corporation from THCP trustees to his/NEON fold, D1806: **Exhibit H-W**.

Attorney Fitzsimmons got rewarded for concealing the facts and got rewarded for hundreds of counts of professional misconduct and for wrongdoing through bill/sanctions against innocent victim/Petitioner. Without an opportunity to bring a sound appealable order to court's jurisdiction against wrongdoers, many more victims will suffer.

III. Questions Presented & ARGUMENT:

QUESTIONS PRESENTED:

1) Whether a Bankrupt/liquidated Ohio corporation can supersede uniform Federal Supremacy Bankrupt laws due to Ohio RC 5311.18, and an appellant can be qualified as vexatious litigant in a different case because in good faith tried to protect self rights and constitution through appeals and too granting in favor of IRC 4941(d) forbidden self dealings trustee cum attorney of a nonprofit corporation

2) Whether Ohio RC 5311.18 is constitutional to supersede Federal Bankrupt uniform supremacy laws and whether Ohio vexatious statute is constitutional to declare victim as vexatious on appeal while help was sought on Due process, to avoid severe conflicts of interests of IRC 4941(d) forbidden self dealings attorney who caused the underlying case

Since both the questions raise many common issues, those two can be discussed together.

Argument:

a) Holders the way used Bankrupt/liquidated Ohio Corporation improperly to supersede uniform

Federal Supremacy Bankrupt laws using Ohio RC 5311.18:

The judgments in favor of MLHOA should be void on lack of jurisdiction of the state courts using RC 5311.18 where superseding Federal Supremacy laws without jurisdiction, etc, *Morton v. Petitt* (1931), 124 Ohio St. 241. MLHOA attorneys and trustee cum attorney Matthew Fitzsimmons, who used MLHOA for his advantage, knew that there is no contract exists between Petitioner and MLHOA and statute of frauds should forbid the collection. In addition, Matthew Fitzsimmons knew that wrongdoers should not get protection under RC 5311.18 besides their non-performance of services other than extortion, and too by using a bankrupt/liquidated corporation. Trustee cum attorney Fitzsimmons should not have benefited under RC 5311.18 and too to get away with conversion of millions of dollars and property from others by using bankrupt/ liquidated corporation, and Mr. Fitzsimmons knew from the pleadings that MLHOA used illegally different dates with Ohio Bureau of Workers compensation; different dates with Ohio Secretary of State, different dates with IRS, **AU1307: Exhibit A0 p18, Exhibit J35 etc** with pertinent to the same corporation established date and should not have protection under RC 5311.18. Moreover, MLHOA-Holders upon extorting excessive funds from petitioner, yet sued to convert the unit and submitted materially falsified ex-parte fax to judge on 4/21/2005 at 3:48 pm, to further alter the outcome, **AU1307: Exhibit G3-G4**.

Trustee cum attorney Matthew Fitzsimmons to cover-up his tracks, he used MLHOA issue in the courts stating as if petitioner is maintaining frivolous claim/appeal and or vexatious as petitioner contested in MLHOA case stating RC 5311.18 should not be superior over Federal Supremacy Bankruptcy laws. Trustee cum attorney Fitzsimmons used one court against another court (trial court, appeal court, Ohio Supreme Court) to use opinions/decisions contrary to the facts with half-truth to no truth and obtained judgments to cover his tracks and, used MLHOA case for his benefit. Holders violated constitution for their pecuniary benefit and their interests ahead of judiciary system and ahead of their clients' interest and they should not be rewarded.

B) Due process and constitutional rights during the appeal process as self dealings attorney involved in manipulations including with the billing:

The Due process, fair trail, and constitutional rights are further violated when petitioner sought justice in good faith from Appeal court. The appeal court did not take up the petitioner's appeal in late September 2006. Then trustee Fitzsimmons made trial court to dismiss the case for seeking appeal and the trial court on or around 10/3/2006 denied the pending petitioner's motion for continuance and simultaneously dismissed the case with the stated reason as "lack of prosecution." The dismissal order stated dismissal against all the parties and all the claims, meaning dismissal against defaulted parties too. Then using the trial court dismissal of the case, trustee cum attorney Fitzsimmons filed for sanctions against petitioner in the appeal court in the same case where the appeal court denied the case to look into it on the constitutional grounds or modify the law that brought by petitioner but accepted Mr. Fitzsimmons's motion for sanctions by claiming as if the appeal is frivolous. When the petitioner came to Ohio Supreme court, trustee cum attorney Fitzsimmons made his name removed from the party list (so vexatious litigation statute RC 2323.52 won't be applicable to him as he can avoid prior pleadings either as pro se or under the name of his clients but to remove his name as a party or to strike the summons) dismissing/denying the ceritory for original interlocutory appeal where the opponent counsel violated about 34 Disciplinary Rules and had over two dozens of conflicts of interests/parties yet harshly punished victim through monetary sanctions and declaration as vexatious litigant.

Per Mr. Fitzsimmons conclusory filing of 1/11/2007 in OH 2006-2302 starting p12 and OH2006-2073 starting p7 claims as if Petitioner's conduct clearly rises to the level of habitual, Mr. Fitzsimmons referred to MLHOA case and indicated as if it shows Petitioner engaged "...in this type of frivolous conduct." And further concluded that Petitioner has a history of harassing opposing counsel with motions to disqualify and to disbar and filing frivolous appeals. To come to this materially false conclusion without looking into the underlying fraud in the case

and not mentioning that hundreds of unit/homeowners who got defrauded through MLHOA cases Mr. Fitzsimmons just served his forbidden self dealings purpose. With these materially false allegations against Petitioner, Mr. Fitzsimmons improperly got sanctioned against Petitioner in multiple levels including as if frivolous and as if vexatious besides Ohio statute does not support through such materially false allegations. Attorney Fitzsimmons conveniently falsified the appealable order OH2006-1786 to Ohio Supreme Court case of appointment of a Receiver under the RC 5311.18 that used a bankrupt/defunct/liquidated/DEAD corporation(s) (MLHOA/BVHA/BVCUOA), irrespective of Ohio Supreme Court taken up the case. In addition, Mr. Fitzsimmons claimed as if still Ohio Supreme Court has to rule on another Appeal. Moreover, with those false allegations under the name of Miles Landing case against Petitioner, not only improperly categorized through Ohio Supreme Court 1/11/2007 vexatious motion filing in OH2006-2073, but also collected attorney fee through 5/26/2007 judgment whether that fabrication and or purported research time was listed under research to look Miles Landing cases in that case, but also billed under OH2006-2302 case for 6 hours under the name of research on 12/21/2006 and as if 3 hours for each of NEON and THCP. When infact same MLHOA information was used much earlier and also in 12/6/2006 filing of OH2006-2073. As the evidence indicates through Mr. Fitzsimmons's 12/6/2006 filing in OH2006-2073, he knew the details of MLHOA cases as listed in page 3 under foot note 4, there no additional research was done on MLHOA cases to bill for 6 hours of 12/21/2006 under both NEON and THCP and it is an example of improper billing and the pertinent footnote 4 states:

> "Petitioner has a history of harassing opposing counsel with motions to disqualify and to disbar. This is the way that he litigates. He employed the same strategy in *Miles Landing Home Owners v. Vihaya Bikkani*, et al., Case No. CV-04-519870 in the Court of Common Pleas of Cuyahoga County, by filing similar motions requesting the disqualification, disbarment, and deposition of opposing counsel. On appeal to the Eighth District, pro se Petitioner

encountered final appealable order problems. *Miles Landing Homeowners Association v. Bikkani*, Slip Copy, 2006 WL 178 1226 (Ohio App. 8 Dist.) , 2006-Ohio-3328. The Supreme Court of Ohio also declined jurisdiction to hear the case (Case No. 2005-1786)."

Trustee cum attorney Fitzsimmons's 1/11/2007 filing of OH2006-2302 Page 12 states in part:

"...Petitioner filed three appeals with the Eighth District -- all of which were dismissed for lack of final appealable orders. See, *Miles Landing Homeowners Ass'n v. Bikkani* (8th Dist. June 29, 2006), 2006 WL 1781226, 2006-Ohio3328 (CA-05-863356 and CA-05-86942), and CA-05-86747 which is not reported..."

Similarly, in 1/11/2007 filing of OH2006-2703, Mr. Fitzsimmons filed starting last para of Page 7:

"...Petitioner also repeatedly filed frivolous appeals with the Eighth District and Supreme Court in that case. During a four-month period in that case, Petitioner filed three appeals with the Eighth District -- all of which were dismissed for lack of final appealable orders. See, *Miles Landing Homeowners Ass'n v. Bikkani* (8th Dist. June 29, 2006), 2006 WL 1781226, 2006-Ohio3328 (CA-05-863356 and CA-05-86942), and CA-05-86747 which is not reported..."

Trustee cum attorney Fitzsimmons knew that he materially falsified the information as habitual and as listed other scenarios under hundreds of counts, by stating that

"all of which were dismissed for lack of final appealable orders. See, *Miles Landing Homeowners Ass'n v. Bikkani* (8th Dist. June 29, 2006), 2006 WL 1781226, 2006-Ohio3328 (CA-05-863356 and CA-05-86942)..."

Infact the above quoted case was appealable and even oral hearings were conducted by the appeal court, though they gave priority to

Ohio RC 5311.18 over federal supremacy laws that involved bankrupt chapter 7/liquidated/defunct/ DEAD MLHOA/BVHA/BVCUOA corporation(s) and Ohio supreme court declined jurisdiction stating lack of interest/priority.

Moreover, trustee cum attorney Fitzsimmons **knowing** that Ohio Supreme Court already made decision by 12/27/2006, in his 1/11/2007 filing of OH2006-2073 p8 stated as if the "...Supreme Court has not yet accepted or dismissed...", to make it appear as if Petitioner's MLHOA Supreme court appeals are pending:

> "...On September 11, 2006, Petitioner filed a Notice of Appeal with the Supreme Court with regard to the Eighth District's Orders in Case Nos. CA-05-863356 and CA-05-86942. The Supreme Court has not yet accepted or dismissed that appeal. The similarities between Petitioner's conduct in Miles Landing and this case are remarkable: defamatory and unsubstantiated accusations, outlandish claims, motions to disqualify and to disbar opposing counsel, and improper appeals of orders that are patently not final and appealable..."

It is that Mr. Fitzsimmons made unsubstantiated accusations against Petitioner and the listed hundreds of counts of Mr. Fitzsimmons's violations out of thousands speaks about the substantiation. The similarities between Mr. Fitzsimmons's conduct and MLHOA attorneys conduct can speak out loud through *Miles Landing Homeowners Association v. First Federal Savings Bank* (8th District cv03-501113), *Miles Landing Homeowners Association v. Harris* (8th Dist cv03-507970, OH2006-2054), where extortion, conversion, forgery, material falsification, etc are predominant, please see **AU1307** filing in the instant case.

Unfortunately, Mr. Fitzsimmons materially falsified habitually the trail court filings and the Appeal court filings, and in contrary to his 12/6/2006 filing in OH206-2073 page 4. Declaring Petitioner under RC 2323.51 as if frivolous is in violation of same statute, as it was not followed with the needed hearing nor Petitioner's conduct is frivolous. In addition, Ohio Supreme court

further categorized as vexatious by relying on half-truth to no truth Mr. Fitzsimmons's claims and by falling into the trap of Mr. Fitzsimmons to cover-up his tracks, and to cover his pro se pleadings under the name of purported or fully controlled client through forbidden self-dealings. Moreover, as Mr. Fitzsimmons's footnote 5 of 12/6/2006 indicated "...Petitioner attached multiple judgment entries to the Notice of Appeal..." and the appeal is not just for disqualification of Mr. Fitzsimmons but by combining with hundreds of counts of violations/counts listed in other sections and those are related to the appeal attachment judgment entries. Mr. Fitzsimmons is known for altering the facts based upon the convenience. Like it was stated in the past, it is not an issue whether it is important to have Mr. Fitzsimmons as a party in the Supreme Court docket but the facts are important. In Mr. Fitzsimmons filing in 12/6/2006 of OH2006-2073, to remove his name he claimed as if

> "...Matthew T. Fitzsimmons is, and has been since pro se Petitioner-Petitioner Prasad Bikkani initiated this case at the trial court, counsel of record for NorthEast Ohio Neighborhood Health Services, Inc. ("NEON") and Total Health Care Plan, Inc."

The above filing is false and part of appeal is to reinstate him as a party, meaning he was a party before getting stricken. Moreover, Mr. Fitzsimmons couldn't cite any reference where an Petitioner can not name the summons served party (whether later stricken or not) during the appeal process similar to the instant case or any case for that matter, please see page 1 of 12/6/2006 filing of Mr. Fitzsimmons and yet he billed for such research in OH2006-2073 yet influenced the court and unfortunately made Petitioner declared as vexatious and it should be reversed.

C) The issue is The Public/National Important: Holders Knowingly superseded federal supremacy laws, further victimized the victim by declaring as vexatious litigant in favor of IRC 4941(d) forbidden self dealings trustee cum attorney of a nonprofit corporation and Ohio RC 5311.18 may not constitutional to supersede Federal Bankrupt uniform supremacy laws and Ohio vexatious statute may not be constitutional to declare petitioner as

vexatious on appeal while help was sought on Due process, to avoid severe conflicts of interests

The decisions associated with the instant case conflicts with decisions of Federal courts and many state courts of last resort as they do not allow trustee cum attorney who caused the underlying case to be continued to represent in the court to further undermine the judiciary system especially when involved in causing the underlying case and too can not benefit through rulings in favor of bankrupt/liquidated/DEAD corporation or contesting against such extortions, though court might have inadvertently granted in favor other commingled attorneys. By doing so, unfortunately, the attorneys self dealings acts are being legalized and it is unfortunate that the decisions involved in overriding superseding the Federal bankrupt chapter 7/liquidation of corporations laws through RC 5311.18 and for contest on such issues and on contest against extortion punishing with frivolous conduct and or vexatious conduct in favor of the instant case which referred to the other self dealing attorneys' acts. The current judgments against victim/Petitioner does not support RC 2323.51 and or RC 2323.52 and it is very unfortunate

In the instant case trustee cum attorney Matthew Fitzsimmons represented with over 35 Disciplinary Rule violations, with dozens of conflicts of interests/parties/issues, many patterns of corrupt activity out of which about 250+ of them are listed, *Bikkani v. Lee* (8th Dist. Cv05-566249, CA88650, CA89312, OH 2006-2073, OH 2006-2302) in an attempt to disqualify him though not successful. Mr. Fitzsimmons as a principal/NEON board member, being involved in wrongful acts, should not have represented NEON, THCP, and or other NEON board members with conflicts of interest, materially altered facts, knowingly and willfully violated to erode confidence in judiciary system. The Supreme Court held a quarter century ago that overruling of motion to disqualify counsel is not order made in special proceeding thus is not final appealable. *Bernbaum v. Silverstein* (1980) 62 Ohio St 2d 445, 406 N.E.2d 532 and the decision were well supported based upon understanding that bar association deals with any impropriety of attorney and not

knowing to this extent like in the instant case or like in MLHOA case attorneys involve so deeply to forbidden self deals serving and not knowing that Ohio Disciplinary counsel does not involve while case is in progress. Since due to these new constraints and to seek justice, Petitioner with good faith came to Appeal court and Supreme Court and too seek any modification of law if the existing law does not support. The issue presented is of broad concern and the questions raised in the petition are of consequence to the Federal government too.

The current experience brings a questions that whether trustee cum attorney Matthew Fitzsimmons extended improper acts and acts on behalf of others in concert into the court room, unlike in *United Air Lines, Inc. v. Evans*, 431 U. S. 553 (1977), and Mr. Fitzsimmons's continuation of representation under attorney hat through IRC 4948(d) forbidden self-dealings and manipulation of facts with false affidavit and other means gave "present effect to its past improper acts and thereby perpetuated the consequences of forbidden unlawful practices". The trustee cum attorney Matthew Fitzsimmon's influence on the court is so high, or perhaps due to the sensitive issues involved with Ohio RC 5311.18 against federal Supremacy laws, the court didn't follow the required hearing of RC 2323.51, petitioner does not meet the RC2323.51 (A) frivolous conduct, and the court ignored the statute requirement itself RC 2323.51(B) (2) which states in the pertinent part: An award may be made pursuant to division (B)(1) of this section upon the motion of a party to a civil action or an appeal of the type described in that division, but only after the court does all of the following. Like stated above, in the instant case no hearing was set to determine if the conduct was frivolous, whether any party was adversely affected by it, and to determine if an award is to be made, and the amount of that award, thus in violation of (RC2323.51 (B)(2)(a).

Victim/petitioner's Due process rights were violated, where expected the protection and assistance, by punishing rather than rewarding for the sacrifice and for the good faith effort, both by Appeal court and further punishment by Ohio Supreme court just because an attorney who is a member of US Supreme Court had high influence over the Ohio court system as he was able to conceal the facts in furtherance of his pecuniary benefit and can go

to any extent by engaging in a conduct unbecoming a member of the Bar of the court. Ohio RC 5311.18 superceding US Federal bankruptcy laws, or alternatively, Ohio state court of last resort did not interfere to avoid conflicts between state statute/court decisions against federal supremacy laws. A state court has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

In order to be declared the petitioner as vexatious litigant RC 2323.52 (A) was not satisfied and also conduct was not found as frivolous per RC 2323.51 other than belief by court based upon half-truth to no truth statements by trustee cum attorney Fitzsimmons to cover-up his tracks. The Appeal court failed to conduct a hearing to declare frivolous and award sanctions as required by RC 2323.51, nor conducted a hearing by Supreme court before deciding in favor of RC 2323.52 and or other procedural requirement to determine rather than believing appeal's court judgment that is already in violation of RC 2323.51 without following the needed requirements. It is additional surprising to the petitioner as the court sided with Ohio RC 5311.18 in MLHOA case.

Trustee cum attorney Fitzsimmons's conduct is frivolous and in violation of RC 2323.51(A)(2)(a) to obviously serves merely to harass or improperly injure petitioner, to conceal the facts, it is not warranted under existing law and cannot be supported by a good faith argument for an extension, modification, or reversal of existing law. Moreover, petitioner's conduct is not in question per RC 2323.52 and rather Trustee cum attorney Matthew Fitzsimmon's conduct is improper and petitioner's conduct is to serve justice by getting protection from trustee cum attorney Matthew Fitzsimmons's harassment and from his improper acts to injure to the petitioner as he violated RC 2323.52(A)(2)(a). Trustee cum attorney Matthew Fitzsimmons's conduct is not warranted under the existing law and can not be supported by a good faith argument for an extension, modification, or reversal of existing law, thus he violated RC 2323.52(A)(2)(b) and not the other way around against such conduct of petitioner. Trustee cum attorney Matthew Fitzsimmons's conduct is with obstruction of justice and solely for the delay thus he violated RC

2323.52(A)(2)(c). Trustee cum attorney Matthew Fitzsimmons's conduct meets RC 2323.52(A)(3) "Vexatious litigator" definition as he has habitually, persistently, and without reasonable grounds engages in improper conduct and he represented himself as Pro Se in the instant case when he was named as a party and served the Summons with Sheriff (though he refused to accept the tendered service and filed various motions to remove his name).

The sample hundreds of counts listed with **30+** Disciplinary Rule violations, and dozens of Fiduciary violations listed various times, including in June 11,2007 filing highlights facts about trustee cum attorney Fitzsimmons. This case deserves appropriate treatment as one of the great importance of public interest and involved with substantial constitutional issue, Due process violations, prejudice, and constitutional amendment violations. With a good faith Petitioner brought to the court's attention for justice, Attorney Fitzsimmons should not be rewarded for wrongdoing with bill/sanctions against Petitioner, and judgments should be in Petitioner's favor.

Petitioner had meritorious claim, with half-truths and in violation of dozens of Disciplinary rules and pertinent laws Attorney who is a Board of Trustee caused tortious interference, ousted Petitioner even whom represented in the past, caused victim in the process, and continue to cause damages by repeatedly filing with half-truths. Fourteenth Amendment supposed to protect the rights to acquire, enjoy, own and dispose of property. Equality in the enjoyment of property rights was regarded by the framers of the **Fourteenth Amendment** as an essential pre-condition to the realization of other basic civil rights and liberties, which the Amendment was intended to guarantee. Using Petitioner's name and Ohio RC 5311.18, Holders continue to deprive such rights by just threats for extortion, to tow car, to restrict disposing trash, to restrict to walk, conversion of funds/property, concealment, fraud and obstruction of justice, and Federal supremacy laws. Moreover both the income producing property and the income there from were transferred in their entirety and unconditionally to the Trustee. *Cold Metal Process Co. v. C.I.R.* (C.A.6 1957) 247 F.2d 864, *874 and third parties do not have any right over the bankrupt/liquidated BVHA/BVCUOA to change name and or to use DEAD status and without control to extort funds. Same

attorney, Keith Barton, representing, purported trustees with severe conflicts of interests along with that attorney, Barton, John MacDonald, Mark Hanslik together having a checking account on behalf of MLHOA and they keep writing to themselves constitutes IRC4941 (d), **Sixth Amendment, Fifth Amendment Eighth Amendment, and Fourteenth Amendment** violations which were detailed in the previous pleadings.

The courts should not encourage the acts of some wrong attorneys and the validity of RC 5311.18 statute should be reviewed or should be declared as unconstitutional as it is superseding Federal supremacy laws. The courts did gave so much weight to RC 5311.18 and did not even worry about defrauding various entities such as IRS with multiple EIN, non-disclosures where the disclosures are due, tax filings as if Association started on 10-1-1999 where as lawsuits as if the Association started in 1972 and as per Secretary of State records of a bankrupt/liquidated original corporation established date. It is just like an ID theft thief maintains multiple IDs and gives different info to different people; it is well established through corporate ID theft scheme involving millions of dollars and attorneys played a key role. Pursuant to Bankruptcy Code, in a chapter 7 proceeding 11 U. S. C. §330(a)(1) does not authorize payment of attorney's fees unless the attorney has been appointed under §327 of the Code. BVHA was adjudicated under chapter 7, no attorneys or professionals of debtor BVHA were appointed, and there should not be any fee request, *Lamie v. United States Trustee*, 540 U.S. 526 (2004). In Chapter 7, an estate consists of all the property "wherever located and by whomever held." 11 U. S. C. §541(a) and trustee controls not the debtor, *Marrama v. Citizens Bank of Massachusetts*, 127 S.Ct. 1105 (2007) and a debtor who acts in bad faith prior to forfeits his right to obtain Chapter 13 relief. The corporate debtor, BVHA/MLHOA, who went through Chapter 7 decades ago, in 1978, won't be having a new life starting suddenly from 1999 to extort funds from community under the name of Ohio RC 5311.18. There is no doubt that it became a sensitive issue in 8th District court and in Ohio Supreme Court when the trial courts gave judgments in favor of MLHOA as they involved in over 100 cases, the basic question would have been whether RC 5311.18 is constitutional to override Federal laws, ie whether to bring Chapter

7 bankrupt/liquidated corporations into business decades later and to grant immunity to wrongdoer's extortion methods at the expense of community and to rule in favor of such liquidated corporation. In the instant case trustee cum attorney Matthew Fitzsimmons used with material twists in his favor the MLHOA case in which petitioner brought to the light above issues and by facing the changing attorneys of MLHOA as their wrongdoings are being discovered and in further violations of constitutions get punished the victim in each phase of the court system in an effort to cover-up his tracks. However, the net results are great harm to the petitioner, and if these judgments stand, great harm to the society, and crisis to the constitution, and too the Federal Supremacy laws.

The extortion by MLHOAHolders imposed against MLHOA victims are in violation of **Amendment XIII** to impose involuntary servitude or equivalent to keep on coming up with randomly imposed extortions on behalf of liquidated/defunct/ bankrupt corporation to benefit attorneys involved/business. The Federal Supremacy laws are based upon **US Constitution X** amendment and Bankrupt/liquidated Corporation does not have special rights to extort funds and to violate Due process clause. It leads to violation of **amendment VIII** with excessive fine/punishment imposition for honesty and for attempting to get justice served. It is violation of amendment IX to punish in violation of **amendment VIII** when sought justice and for punishing the innocent party. It is in violation of **amendment XIV** without due process for fair Trial while trustee cum attorney Mr. Fitzsimmons representing himself to cover-up facts with materially false affidavit, dozens of conflicts of interests as if he is representing NEON and THCP by converting rival THCP into NEON and representing against petitioner to whom he represented in the past and other over a dozens parties and too to be responsible for the underlying case through intentional and tortious interference with petitioners employments activities with NEON/THCP.

IV. Conclusion:

Based upon the above pleading and with the support of past filings, some of the issues rise through Attorney Fitzsimmon's cum Board of trustee raises issues like:

A) Whether a board of trustee, as a General counsel in combination with causing for the underlying case through violation of laws and in further violations while pretending to be an attorney of purported corporations

(i) can materially participate for pecuniary benefit against corporation/client, (ii) can materially participate in unlawful termination of employees in concert with third parties, (iii) can materially participate in submission of wrong information/financial statements to corporation through third parties, iv) can participate in conversion of corporation against board of trustees, v) can materially participate in the conversion of funds; and still can represent in the subsequent lawsuit against a victim/Petitioner not only with conflicts of interests but also with further pecuniary benefit and to suppress/alter facts, vi) Whether an attorney in conjunction with the above violations/characteristics can submit to the Trial court: a) materially falsified affidavit, b) half truth pleadings, c) evade deposition, d) obtain protective order, for further pecuniary benefit and to protect all his past clients who happened to be over a dozen defendants in the instant case and attorney being a party to the lawsuit can refuse the summons and can represent in the case.

B) Whether an attorney in conjunction with the above violations/characteristics can participate in hundreds of corrupt activities; when sought help from Appellate court then can present half truth to the court to obtain sanctions against victim/Petitioner then continue to represent in Supreme court with half truths as if the Petitioner is vexatious

C) Whether the parties can be represented by an attorney of the above violations/characteristics along with an attorney/group of another attorney's extension

D) Whether Appeal court lacks jurisdiction/appealable matter to review even when the same court considered Mr. Fitzsimmons/NEON/THCP's motion to impose sanctions against Petitioner/victim when sought justice within the existing law, or to modify the existing law to protect community.

E) Whether a trustee cum attorney of a non-profit corporation can avoid disqualification from a case which was actually originated through his underlying Federal violation against victim along with others in concert, and by using the judiciary system and

a) Can he advance his personal interests in violation of forbidden IRC4941 (d) self-dealings, b) Can he submit materially false affidavit to obstruct justice and to offend the victim and the judiciary system, c) Can he violate **Fourteenth** Amendment and **Sixth** Amendment besides **Canon 5, Canon 4, Canon 9**, and about 35 DR violations with dozens of conflicting of interests/parties, d) Can he benefit for his advantage using another case where petitioner is a victim along hundreds of others, which involved with violation of crimes, constitutional violations including the violation of Federal Supremacy laws even with Bankrupt/DEAD/ Liquidated Corporation, e) Can he turn victim into further victimization by using above violations plus for sanctions, to declare as vexatious litigant, and to cause to dismiss the case when infact the results should be other way around.

Petitioner filed an Action on his own behalf, on behalf of employer THCP/NEON. The complaint includes breach of fiduciary duty, conversion, receipt of an unlawful distribution of assets, action false/misleading financial statements, action on conversion, reinstatement, retaliatory/unlawful termination, action on material falsification, etc. Petitioner filed disqualification of Attorney Matthew Fitzsimmons arguing first that Mr. Fitzsimmons had a conflict of interest by way of Mr. Fitzsimmons's role as corporate counsel to THCP/NEON, Board member of NEON/THCP (Claimed NEON as a member of THCP), represented Petitioner and other employees, represented other defendants, as a party to the lawsuit and served summons, involved in severe violations and too involved in unlawful discharge and other allegations of the complaint and evaded deposition and still a witness in the litigation. As the record indicates, a past attorney-client relationship existed between Petitioner and Attorney Fitzsimmons; the subject matter of those relationships is substantially related; and Mr. Fitzsimmons acquired confidential information from Petitioner and supports Attorney Fitzsimmons disqualification, *Dana Corp. v. Blue Cross & Blue*

Shield Mut. of N. Ohio (C.A.6, 1990), 900 F.2d 882, 889; *Mentor Lagoons, Inc. v. Rubin* (1987), 31 Ohio St.3d 256.

Mr. Fitzsimmons eluded as if Petitioner brought the derivative lawsuit for hundreds of employees and there by on behalf of corporation asking the corporate counsel to be disqualified. Though generally, a party on the outside of an attorney-client relationship "lacks standing to complain of a conflict of interest in that relationship." *Morgan v. North Coast Cable Co.* (1992), 63 Ohio St.3d 156, 159, it is true if an attorney never represented a client or stranger to the attorney-client relationship to complain any of the conflict of interest. It is not the case with Petitioner and Mr. Fitzsimmons represented Petitioner. Attorney Fitzsimmons's representation of the corporation is substantially/directly related. In such circumstances, though, whether Attorney ultimately is a material witness in the litigation does not matter, *Patrick v. Ressler* (Sept. 28, 2001), Franklin App. No. 00AP-1194, the factual context of his prior representation of THCP/NEON and the factual context of the present case create a relationship substantial enough to justify disqualification. Furthermore, Mr. Fitzsimmons is a board member, represented all the defendants, a party to the current lawsuit, altering evidence, materially participated in illegal activities including in retaliation and unlawful termination of Petitioner for his pecuniary benefit.

Moreover, Petitioner has brought the action on behalf of the corporation after giving series of notices/communications to nonprofit corporation/board of directors. As the corporation's counsel, it is presumed that Attorney Fitzsimmons received confidential information, *Brant v. Vitreo-Retinal Consultants Inc.* (April 3, 2000), Stark App. No. 1999CA00283 and the subsequent representation by Mr. Fitzsimmons is not vicarious but primary and unlike a need to presume the received confidences as rebuttable. *Brant v. Vitreo-Retinal Consultants, Inc.* (Apr. 3, 2000), Stark App. No. 1999CA00283, discretionary appeal denied, 90 Ohio St.3d 1402. Under the given circumstances, Appeal court imposing attorneys' fees would be unfortunate to determine the reasonableness, as well as amount of the attorney fee award. Similarly, it is unfortunate to rule in favor of Mr. Fitzsimmons' motion and by reconsidering the facts the Court should vacate the attorneys' fee award and in favor of Petitioner including the vexatious litigant label. This great injustice

is the further consequence of pecuniary benefit involved and the parties who involved in the underlying case representing the case with half truths and this case is unique for the final appealability or to modify the law accordingly and the victim/Petitioner should not be penalized for the good faith efforts and too in view of great loss already suffered through.

As stated earlier Mr. Fitzsimmons, and other attorneys/firms violated **Fourteenth Amendment** and **Sixth Amendment** besides **Canon 5**, **Canon 4**, **Canon 9**, and other DR violations. NEON's **Board member/Trustee** Mr. Fitzsimmons is a fiduciary or trustee to Petitioner, *Hafter v. Farkas*, 498 F.2d 587, 589 (2d Cir. 1974). In the instant case the violations are much beyond any case ever come to in front of court and involved many conflicts and constitutional violations and caused severe injustice to Petitioner and to the judiciary system itself. Matthew Fitzsimmons himself has a competing attorney-client privilege with THCP, NEON, THCP Board, NEON Board, Petitioner, other defendants of the instant case, and even breaching the fiduciary relationship he had with Petitioner, to continue to cover-up violations. Attorney Fitzsimmons/Board member severely violated Disciplinary Rules and Fiduciary duties for over a dozen defendants in the instant case and to Petitioner as all are his clients/ex-clients/ or express attorney-client relation, thus strict standards of **Canon 5** is applicable. Mr. Fitzsimmons has been privy to THCP, NEON, Dr. Marshall, Mr. Kimber, Mr Lee, Mr. Scheur, Ms. Aaron, SMG, Mr. McMillan, Ms. Phelps, Mr. Pinkney, Mr. Davis, and Petitioner's; confidences, thus violation under **Canon 4** and Mr. Fitzsimmons should have been disqualified from representing the defendants in the instant case. In the course of the former representation Mr. Fitzsimmons acquired information related to the subject matter of his subsequent representation, and Mr. Fitzsimmons should be disqualified under **Canon 9** of the Code of Professional Responsibility, *Emle Industries Inc.* v. Patentex Inc., 478 F.2d 562 (2nd Cir. 1973), *Kala v. Aluminum Smelting & Refining Co., Inc.* (1998), 81 Ohio St.3d 1 at 5. As a matter of fact, attorney Mr. Fitzsimmons, Attorney Dennis Roth, Attorney Brian Green violated **Canon 4**, **Canon 5** and **Canon 9**. Attorney Brian Green is an attorney of disqualified Attorney Dennis Roth. It is clear that under **Canon 9** as well as

Canons 4 and 5, Matthew Fitzsimmons should be disqualified. Similarly the **Canon 4** of the Ohio Code of Professional Responsibility imposes a duty on Matthew Fitzsimmons, and on Dennis Roth to protect THCP's, Petitioner's, THCP Board of Trustees, NEON's, and SMG defendants as all of them have privity with them confidences and secrets including to related to Petitioner's wrongful termination claim, *State ex rel. Leslie v. Ohio Hous. Fin. Agency*, 105 Ohio St.3d 261, (2005); DR 4-101(A); *Kala v. Aluminum Smelting & Refining Co., Inc.* (1998), 81 Ohio St.3d 1. Using the direction in Disciplinary Rule **5-105(D)** and by **Canon 9**'s warning that "A Lawyer Should avoid Even the Appearance of Professional Impropriety" Mr. Fitzsimmons getting violated in all aspects.

Mr. Fitzsimmons improperly defending/defended against the disqualification motion, with serious disregard for the orderly process of justice, without a colorable basis in law, and causing a harsh blow to the process as it "will have a profound chilling effect upon victims/litigants and would interfere with the presentation of meritorious legal questions. In an idealized world, victim would have bowed out, but reality dictates that great injustice the proper course was to appeal or to get reviewed/modified the law as this kind of case never occurred before. The way Mr. Fitzsimmons involved continued to conceal facts is nothing less than an insult to the doctrine of stare decisis and a slap in the face of the adversary process, *Overnite Transp. Co. v. Chicago Indus. Tire Co.*, 697 F.2d 789 (7th Cir. 1983). Unfortunately, Mr. Fitzsimmons contaminating the law of attorney disqualification, which is a fundamental importance to the legal community and to our society. Mr. Fitzsimmons using confidential information that he has obtained from a client against that client on behalf of another one and representing an adversary of his former clients of the subject matter of the two representations is not just "substantially related," but same. Mr. Matthew Fitzsimmons not only had access to but also received confidential information of **Petitioner**, THCP, board of directors, officers, to NEON, board of directors, officers, and above a dozen defendants in the instant case. In the instant case Mr. Fitzsimmons and his firm popped up as counsel to an adversary of Petitioner. and other defendants following illegal conversion of THCP under NEON and representing against THCP

board of directors officially. Thus Mr. Fitzsimmons's interference under the name of an attorney to two defendants in the instant case is not just the representations that are substantially related to past services/obtained confidences from others but totally and directly related. Consistently with this distinction, *Westinghouse Elec. Corp. v. Kerr-McGee Corp.*, 580 F.2d 1311, 1321 (7th Cir. 1978) -- like this is a case where the same law firm represented adversaries in substantially related matters -- states that it would have made no difference whether "actual confidences were disclosed" even if the law firm had set up a "Chinese wall" between the teams of lawyers working on substantially related matters, though the two teams were in different offices of the firm, located hundreds of miles apart. Mr. Fitzsimmons couldn't have created a Chinese wall in his mind between his multiple violations with various clients. Since it is a direct relationship, substantial relationship inquiry is not needed.

The fact that Mr. Fitzsimmons made stubbornness in resisting disqualification is improper, *Analytica, Inc. v. NPD Research Inc.*, 708 F.2d 1263 (7th Cir. 1983). Somehow **Appeal court and this court** got influenced by Mr. Fitzsimmons and awarded sanctions against Petitioner even without taking up the case to which Petitioner sought justice on basic principle of law, fairness to all litigants believing that fairness requires that any law firm and/or individual of professional impropriety, questionable ethics, or misconduct with the given the opportunity to rebut any and all adverse inferences which may have arisen by virtue of a prior filings. Unfortunately, instead of Matthew Fitzsimmons getting disqualified, innocent Petitioner get sanctioned, suffered due process, due process guarantees, fundamental fairness to victims/litigants, *Lassiter v. Dept. of Social Services*, 452 U.S. 18, 24 (1981). In the instant case not only the counsel/Mr. Fitzsimmons changed the sides in representing against some other client also involved as a party, involved with dozens of serious violations of the Code of Professional Responsibility with a clear unrebutted factual basis. Even just where "the firm itself changed sides", without having a need to have other conflicts such as in the instant case, the law firm was disqualified, *Analytica, Inc. v. NPD Research Inc.*, 708 F.2d 1263 (7th Cir. 05/31/1983). Unfortunately, Mr. Fitzsimmons's interest happened to be in

violation of retaining client by way of controlling the board as a board of trustee and in denying a serious breach of professional ethics which outweighed any felt obligation to 'come clean ' by ignoring as officers of the court though generally most of the attorneys are trustworthy, *The Lawyer's Obligation to be Trustworthy when Dealing with Opposing Parties*, 33 S.C.L. Rev. 181 (1981). It is not a serious and studied disregard for the orderly process of justice. There is a legal basis for original position, material misrepresentation and cover-up involved as alleged whether that position was found to be legally correct/incorrect thus can not be characterized as lacking justification but Matthew Fitzsimmons is vexatious and representing his controlled clients to protect his improper acts, *Overnite Transp. Co. v. Chicago Indus. Tire Co.*, 697 F.2d 789 (7th Cir. 1983). In *Overnite Transp.*, the Petitioner brought suit based on a novel interpretation of the Interstate Commerce Act, not previously addressed in published case law. The district court granted the defendant's motion to dismiss, and on appeal the 7th Cir. Court affirmed then the district court granted the defendant's motion for an order assessing attorney's fees against the Petitioner's attorneys, finding that the attorneys had acted vexatious in instituting the lawsuit. On appeal from the attorney fee award, the 7th Cir. Court held that the district court had abused its discretion. In the instant case, the victim/Petitioner deserves the fees, award, and not Mr. Fitzsimmons under the name of THCP/NEON to get sanctions against Petitioner. Disciplinary counsel should be allowed to investigate the serious violations. As the issues for posed for consideration, Attorney Fitzsimmons should be disqualified/disbarred and he even blocked discovery from board of trustee MT Miller to cover his tracks, and as a Trustee himself should not be tortuously interfering corporate matters for his self-dealings.

The legal profession demands adherence to the highest standards of honesty and integrity. It is a fact that any sanction is an indelible stain on lawyer's as well on Petitioner's record and by balancing these considerations, the court can find that Attorney Fitzsimmons's misconduct is highly egregious than other sanctioned attorney's acts/omissions including, *a public reprimanded Ohio State Governor Taft for his lapses in*

disclosures under violation of DR 1-102(A)(6) (prohibiting conduct that adversely reflects on a lawyer's fitness to practice law), *Disciplinary Counsel v. Taft*, 858 N.E.2d 414, 112 Ohio St.3d 155 (2006). The court can decide whether to impose any sanction at all or not but Petitioner requests court to review the facts. There is no doubt that duties violated by Attorney Fitzsimmons, often willfully, caused injury with aggravating factors and he did not dispute such violations other than just bluntly blaming on Petitioner for the harm he did to his numerous clients.

Mr. Fitzsimmons created victim, submitted materially false affidavit to court, had many violations including deliberately withholding that which by law they were required to reveal; *Disciplinary Counsel v. Wrenn*, 99 Ohio St.3d 222, 2003-Ohio-3288, 790 N.E.2d 1195 (six-month stayed suspension imposed for assistant county prosecutor's concealment of exculpatory evidence in a criminal case), and *Disciplinary Counsel* v. Jones (1993), 66 Ohio St.3d 369, 613 N.E.2d 178 (six-month actual suspension imposed for assistant county prosecutor's failure to advise court in criminal prosecution that he had found previously misplaced evidence that was potentially exculpatory or mitigating). Attorney Fitzsimmons forced Petitioner to keep disclosing violations of Mr. Fitzsimmons while he keep feeling the filed facts tend **to effect Mr. Fitzsimmons**, he knew that Petitioner was forced to plead with facts without malice or falsity where actual malice essential to feel improper against Petitioner, *Hahn v. Kotten* (1975), 43 Ohio St.2d 237, 244.

WHEREFORE, though trustee Fitzsimmons claiming MLHOA cases for his advantage improperly and besides he knowing the facts that Petitioner came to Appeal with good faith following *Miles Landing Homeowners Association (MLHOA) v. Bikkani* (cv04-519870) in which MLHOA attorney's with pecuniary interest went to great extent to modify/alter facts even in front of court numerous times including on 4/21/2005, along with false affidavits and ex-parte fax to judge with materially false information. Unfortunately trustee cum Attorney Fitzsimmons being submitted materially false affidavit to the court in September

2005 itself in the instant case, and blocking deposition from whom Mr. Fitzsimmons submitted affidavit by preparing it, and by representing co-trustee MT Miller and by blocking his deposition for Mr. Fitzsimmons' advantage; and being personally involved, representing multiple parties. Petitioner believed that law supports the appeal at least under the contest to modify the law if needed, and with the experience of MLHOA case and as difficult to safeguard the integrity of process as many key facts are being altered by involved attorneys and in good faith believed that Disciplinary Rules and pertinent laws supports the appeal. Petitioner sincerely pleads with the Honorable court not to reward Attorney Matthew Fitzsimmons with bill/fee/sanctions/verdict against innocent victim Petitioner, good faith and cause exists to plead for rescue from Court to seek for justice. And not benefit him with the further advantage of forbidden self-dealings of a non-profit corporation. Being Trustee, Matthew Fitzsimmons tortiously interfering business relationships, controlling the corporation(s) for his pecuniary benefit, with the forbidden self-dealings, Attorney Fitzsimmons is manipulating the events as he deems fit. Mr. Fitzsimmons should not be rewarded for wrongful acts but he should be disciplined. Matthew Fitzsimmons' bills should not be rubbed on victim/petitioner. Trustee cum Attorney Fitzsimmons should be disciplined and judgment against victim/Petitioner should be reversed to the benefit of justice.

In the instant case, trustee cum attorney Fitzsimmons represented with 35 Disciplinary Rule violations, over two dozen conflicting issues/parties, used the MLHOA case appeals of petitioner to his advantage to claims as if appeals are frivolous and if petitioner is vexatious and got monetary sanctions too to cover-up his IRC 4941(d) forbidden self dealings, further affected and raised the questions about jurisdiction of US Supreme Court, legal authority of Federal Government over sates through Federal Supremacy laws, constitutional guarantees of citizens. Without such review, it effects entire nation by letting the current judgment to stand and in violation of Amendment **XIII** to impose involuntary servitude or equivalent to keep on coming up with randomly imposed sanctions on behalf of liquidated/defunct/ bankrupt corporation to benefit attorneys involved/businesses. The RC 5311.18 took away any rights of citizens if once a corporation

with a word "Association" present brought a lawsuit, even if no connection brought between that Association and the victim, and in the real world it should not prevail. Moreover, the Federal Supremacy laws are based upon **US Constitution X amendment** and Bankrupt/liquidated Corporation does not have special rights to extort funds and to violate Due process clause and or fair trial. Standing up against the above listed due process/fair trail violations and properly bringing to the attention of Appeal Court and Ohio Supreme Court did not cause any punishment in those cases but citing those cases in the instant case in an effort to cover-up those attorneys who wisely didn't attempt to contest against the facts, but by Mr. Fitzsimmons materially falsifying the facts in the instant case to cover-up his tracks and courts getting influenced and declaring Petitioner's claim/appeal as frivolous even without the court following the frivolous statute requirements and declaring as vexatious and penalizing is in violation of Amendment **VIII** with excessive fine/punishment imposition for honesty and for attempting to get justice served. Moreover, it is in violation of Amendment **IX** to punish in violation of Amendment VIII when sought justice and for punishing the innocent party. It is in violation of amendment **XIV** without due process for fair Trial while trustee cum attorney Mr. Fitzsimmons representing himself to cover-up facts with materially false affidavit, dozens of conflicts of interests as if he is representing NEON and THCP by converting rival THCP into NEON and representing against petitioner to whom he represented in the past and over a dozens parties who are his confidents but by representing one against other as it deems fit to him and too by being responsible for the underlying case cause through intentional and tortious interference with petitioner's employments activities with NEON/THCP. This case will be a great interest to the US/Federal Government too due to Federal Supremacy laws violations and perhaps the US Attorney General should participate too.

Respectfully submitted,

Prasad Bikkani, **Pro Se, 3043 Forestlake Dr**
Westlake, OH 44145 (440) 808-1259
Prasadbabu@aol.com

Certificate of Service

A copy of the foregoing mailed by U.S. mail on 27th day of August 2007 to respondents, 3 copies to Matthew Fitzsimmons. In addition served Ohio Attorney General as constitutional issues involved, copy to Special Counsel of AG/ODI for THCP, a copy to Attorney Keith Barton on behalf of MLHOA-Holders.

Prasad Bikkani, Pro Se

Rotan E Lee 6333 Woodbine Ave Philadelphia, PA 19151	Dr. Marshall & Frank Kimber % Michael C. Cohan, 1401 The East Ohio Bldg, Cleveland, OH 44114 (216) 621-7860
Ruth Aaron , % Brian J Green Signature Square II, Suite 220 2501 Chagrin Blvd, Beachwood, OH 44122 (216) 831-5100	Beptin & Associates Inc & Arnold Pinkney 14506 South Park Blvd Cleveland, OH 44128
Moreno Miller - % Shia N. Shapiro 1370 Ontario Street, Suite 330 Cleveland, OH 44113 (216) 241-7442	NEON/THCP % Matthew Fitzsimmons 25 West Prospect Ave, Suite 1400 Cleveland, OH 44115 (216) 621-7227
Barry Scheur, SMG, Robert McMillan, Jimmy Dee, Robert Eichler One Gateway Center Ste 810 Newton, MA 02458	Paula M. Phelps 4530 Warrensville Center Rd, 103 F Cleveland, OH 44128
Total Health Care Plan (THCP) , % Michael H Igoe (0012866), (Special Counsel of Attorney General, State of Ohio, Superintendent of Insurance, Ohio Department of Insurance), Carlile, Patchen, Murphy, **366 East Broad Street**, Columbus, OH 43215, (614) 228-6135	MLHOA, Keith James Barton, John MacDonald, Mark Hanslik, JM Capital Inc, JM Capital Ltd, JM Management 2 LLC etc, **% Keith Barton Esq. (0061748).** 4911 Caroline Dr, #1, Warrensville Hts, OH 44128, Phone: 216-581-8000

THE Supreme Court Of Ohio

Prasad Bikkani
V. Case No. 2006-2302
Rotan E. Lee, Esq., et al. **ENTRY**

Upon consideration of the jurisdictional memoranda filed in this case, the Court declines jurisdiction to hear the case and dismisses the appeal as not involving any substantial constitutional question. Upon consideration of the motion to remove Matthew T. Fitzsimmons, Esq., as a personally named defendant-appellee,
It is ordered by the **Court that the motion is granted.**
(Cuyahoga County Court of Appeals; No. 88650)

THOMAS J. MOYER
Chief **Justice**

Filed/Docketed March 28, 2007

Appendix A1

THE Supreme Court Of Ohio

Prasad Bikkani

V. Case No. 2006-2302

Rotan E. Lee, Esq., et al. **ENTRY**

This cause came on for further consideration of the motion for sanctions against appellant for frivolous action by Northeast Ohio Neighborhood Health Services, Inc. and Total Health Care Plan, Inc.

It is ordered by the Court that the motion is granted.

It is further ordered that appellees shall file a bill and documentation of reasonable expenses and attorneys' fees within twenty days of the date of this entry. Appellant may file objections to appellees' bill and documentation within ten days of the filing of the bill and documentation, and appellees may file a reply to appellant's objections, if any, within five days of the filing of the objections.

(Cuyahoga County Court of Appeals; No. 88650)

THOMAS J. MOYER
Chief **Justice**

Filed/Docketed May 16, 2007

Appendix A2

THE Supreme Court Of Ohio

Prasad Bikkani
V.
Rotan E. Lee, Esq., et al.

Case No. 2006-2302
ENTRY

This cause is came on for further consideration upon the filing of bill and documentation for attorneys' fees, costs and expenses per Court's 5/16/07 entry by Northeast Ohio Neighborhood Health Services, Inc., and Total Health Care Plan, Inc., and appellant's objections to bill and documentation in support of attorneys' fees,
It is ordered by the Court that attorneys' fees and expenses in the amount of $6,864.18 are awarded to appellees. Objections to bill and document in support of attorneys' fees are denied. The Clerk of this Court shall issue a certificate of judgment.
(Cuyahoga County Court of Appeals; No. 88650)

THOMAS J. MOYER
Chief **Justice**

Filed/Docketed July 25, 2007

Appendix A3

THE Supreme Court Of Ohio

Prasad Bikkani

V.

Case No. 2006-2302

Rotan E. Lee, Esq., et al.

ENTRY

On March 5, 2007, this Court found appellant Prasad Bikkani to be a vexatious litigator under S.Ct.Prac.R. XIV(5)(B). This Court further ordered that appellant was prohibited from continuing or instituting legal proceedings in the Court without obtaining leave. On August 13, 2007, Bikkani filed a motion for leave to file motion to have judgment issued as satisfied,
It is ordered by the Court that leave is denied.
(Cuyahoga County Court of Appeals; No. 88650)

THOMAS J. MOYER
Chief **Justice**

Filed/Docketed August 20, 2007

Appendix A4

Court of Appeals of Ohio, Eighth District
County of Cuyahoga
Gerald E. Fuerst, Clerk of Courts

PRASAD BIKKANI

Appellant COA NO. LOWER COURT NO.
88650 CP CV-566249
COMMON PLEAS COURT

-vs-

ROTAN E. LEE, ESQ., ET AL.
Appellee MOTION NO. 389256

Date 10/30/06 Journal Entry

MOTION BY APPELLEES, NORTHEAST OHIO NEIGHBORHOOD HEALTH SERVICES, INC. AND TOTAL HEALTH CARE PLAN, INC., FOR SANCTIONS, INCLUDING ATTORNEYS' FEES, COSTS AND EXPENSES IS GRANTED IN PART. PURSUANT TO APP.R. 23 AND UPON REVIEVV OF THE TRIAL COURT FILE AND THE PLEADINGS FILED IN THIS APPEAL, THE COURT DETERMINES THAT THE APPEAL WAS FRIVOLOUS. THE COURT ALSO REVIEWED THE REQUESTED ATTORNEY FEES AND COSTS ASSOCIATED WITH APPELLEES' PLEADINGS FILED IN RESPONSE TO APPELLANT'S APPEAL AND ORDERS APPELLANT PRASAD BIKKANI TO PAY APPELLEE TOTAL HEALTH CARE PLAN, INC. THE SUM OF $1,360.00 AND APPELLEE NORTHEAST OHIO NEIGHBCRHOOD HEALTH SERVICES, INC. THE SUM OF $1,400.00 AS AND FOR REASONALBE ATTORNEYS FEES AND THE $12.00 IN COSTS EXPENDED IN THE APPEAL.

Adm. Judge **ANN DYKE, Concurs Judge Patricia A. Blackmon**
RECEIVED FOR FILING OCT 30 2006
GERALD E. FUERST, CLERK OF THE COURT OF APPEALS
CA06088650 42149046
County of Cuyahoga VOL 623 PG 0081

Appendix B1